

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re:

Kenneth S. Taylor

Debtor(s).

Case No.: 18-52344

Chapter 7

Judge Alan M. Koschik

**MOTION OF DEUTSCHE BANK
NATIONAL TRUST COMPANY, AS
TRUSTEE FOR THE CERTIFICATE
HOLDERS OF SOUNDVIEW HOME
LOAN TRUST 2006-OPT2, ASSET-
BACKED CERTIFICATES, SERIES 2006-
OPT2 FOR RELIEF FROM STAY AND
ABANDONMENT (FIRST MORTGAGE)**

**8610 Hadden Rd, Twinsburg, OH 44087-
2116**

Deutsche Bank National Trust Company, as Trustee for the Certificate Holders of Soundview Home Loan Trust 2006-OPT2, Asset-Backed Certificates, Series 2006-OPT2 (the "Creditor") moves this Court, under §§ 361, 362, 363, 554 and other sections of the Bankruptcy Reform Act of 1978, as amended (the "Bankruptcy Code") and under Rules 4001, 6007, and under Local Bankruptcy Rule 4001-1 and other rules of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") for an Order conditioning, modifying or dissolving the automatic stay imposed by § 362 of the Bankruptcy Code and for abandonment of property under § 554 of the Bankruptcy Code. In support of this Motion, the Creditor states:

18-030145_VMP

MEMORANDUM IN SUPPORT

1. The Court has jurisdiction over this matter under 28 U.S.C §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2). The venue of this case and this Motion is proper under 28 U.S.C. §§ 1408 and 1409.
2. On February 6, 2006, Kenneth S. Taylor ("Debtor") and Alycia Driggins-Taylor obtained a loan from Option One Mortgage Corporation in the amount of \$84,500.00. Such loan was evidenced by a Promissory Note dated February 6, 2006 (the "Note"), a copy of which is attached as Exhibit A.
3. To secure payment of the Note and performance of the other terms contained in it, the Debtor and Alycia Driggins-Taylor executed a Security Agreement in favor of Option One Mortgage Corporation dated February 6, 2006 (the "Security Agreement"). The Security Agreement granted a lien on the real property located at 8610 Hadden Rd, Twinsburg, OH 44087-2116 owned by the Debtor (the "Collateral") now owned by the Creditor as reflected in the Sheriff's Deed attached hereto as Exhibit B. The Collateral is more fully described in the Security Agreement (check one):
 - ☒ attached as Exhibit C;
 - OR
 - ☐ contained in the Note, attached as Exhibit A.
4. The lien created by the Security Agreement was duly perfected by:
 - ☒ Filing of the Security Agreement in the office of the Summit County Recorder on March 10, 2006.
 - ☐ Filing of the UCC-1 Financing Statement in the office of _____ on <DATE>.
 - ☐ Notation of the lien on the Certificate of Title.
 - ☐ Other (state with particularity) _____

A copy of the recorded Security Agreement, UCC-1 Financing Statement, Certificate of Title or other document, as applicable, is attached as Exhibit C. The Collateral that is the subject of this Motion was sold at a foreclosure sale on August 21, 2015. Creditor is the owner of the Collateral by virtue of the Sheriff's Deed attached as exhibit B.

5. The entity in possession of the original Note as of the date of this motion, is **Creditor**.
6. The entity servicing the loan is Altisource Solutions Inc. The Collateral that is the subject of this Motion was sold at a foreclosure sale on August 21, 2015. Creditor is the owner of the Collateral by virtue of the Sheriff's Deed attached as exhibit B.
7. The Note was transferred, as evidenced by the following:
 - a. If the Collateral is real estate:
 - i. Under Uniform Commercial Code § 3-203(a) as applicable under state law in effect where the property is located, from the original lender (check only one):

☐ N/A.

OR

☐ By endorsement on the Note, payable to _____.

OR

☐ By blank endorsement on the Note.

OR

☐ By allonge attached to the Note, payable to _____.

OR

☒ By blank allonge, attached to the Note. **Because the allonge is in blank and Creditor is in possession of the original Note, Creditor is entitled to enforce the instrument.**

OR

- ☐ The Note is not endorsed to the **Creditor**, or is not endorsed in blank with an allegation that the **Creditor** is in possession of the original Note. The factual and legal basis upon which the **Creditor** is entitled to bring this motion is (explain with particularity and attach supporting documentation):

_____.

OR

- ☐ By endorsement on the Note or by allonge attached to the Note, through a power of attorney. If this box is checked, a copy of the power of attorney is attached as Exhibit <__>. Explain why it provides **Creditor** the authority to endorse the Note:

- ii. Under Uniform Commercial Code § 3-203(a) as applicable under state law in effect where the property is located, from the <FIRST TRANSFEREE> to <_____> [ADD ADDITIONAL TRANSFER SECTIONS AS APPROPRIATE. THE LAST TRANSFEREE MUST BE THE CREDITOR].
- iii. The Collateral that is the subject of this Motion was sold at a foreclosure sale on August 21, 2015. Creditor is the owner of the Collateral by virtue of the Sheriff's Deed attached as exhibit B.
- iv. Other: _____ [explain].

b. If the Collateral is not real estate (check one):

☒ N/A.

OR

☐ From the original lender to <FIRST TRANSFEREE> by <STATE METHOD OR DOCUMENT EFFECTING TRANSFER>.[ADD ADDITIONAL TRANSFER SECTIONS AS APPROPRIATE. THE LAST TRANSFEREE MUST BE THE CREDITOR.]

8. The Security Agreement was transferred as follows (check one):

☐ N/A.

OR

☒ From Option One Mortgage Corporation on June 25, 2007 to Deutsche Bank National Trust Company, as Trustee for the Certificate Holders of Soundview Home Loan Trust 2006-OPT2, Asset-Backed Certificates, Series 2006-OPT2. The transfer is evidenced by the document attached to this Motion as Exhibit D.

i. The Collateral that is the subject of this Motion was sold at a foreclosure sale on August 21, 2015. Creditor is the owner of the Collateral by virtue of the Sheriff's Deed attached as exhibit B.

9. The value of the Collateral is N/A. The Collateral that is the subject of this Motion was sold at a foreclosure sale on August 21, 2015. Creditor is the owner of the Collateral by virtue of the Sheriff's Deed attached as exhibit B.

10. As of the date of this motion, there is currently due and owing on the Note the outstanding principal balance of N/A. The Collateral that is the subject of this Motion was sold at a foreclosure sale on August 21, 2015. Creditor is the owner of the Collateral by virtue of the Sheriff's Deed attached as exhibit B.

11. The amount due and owing on the Note as set forth in paragraph 10 does not include a credit for the sum held in a suspense account by the **Creditor**. The amount of the credit is \$0.00.

12. Other parties **believed** to have an interest in the Collateral besides the debtor(s), the **Creditor**, and the trustee are (check all that apply):

☐ N/A.

☒ The Summit County Treasurer, for real estate taxes, **in an unknown amount**.

☒ Alycia Driggins-Taylor.

☐ <ANY OTHER PARTY HOLDING A LIEN, IF APPLICABLE, IN THE AMOUNT OF \$_____ [ADD ADDITIONAL PARTIES AS APPROPRIATE]>.

13. The **Creditor** is entitled to relief from the automatic stay under Bankruptcy Code

§ 362(d) for these reason(s) (check all that apply):

- ☒ Debtor has failed to provide adequate protection for the lien held by the **Creditor** for the reasons stated in the boxes checked below.
- ☐ Debtor has failed to keep the Collateral insured as required by the Security Agreement.
- ☐ Debtor has failed to keep current the real estate taxes owed on the Collateral.
- ☒ Other cause (set forth with specificity): .

The Collateral was sold at sheriff's sale on August 21, 2015. Debtor filed this bankruptcy on September 28, 2018 and has been in possession of the Collateral since the filing of this case.

Creditor has not accepted rent nor will it demand rent on the Collateral. Creditor requests that the stay be lifted so that it may continue with confirmation of the sale and its Writ of Assistance and obtain possession of the Collateral.

14. **Creditor** has completed the worksheet attached as Exhibit E.

15. **Creditor** is entitled to an order directing the trustee to abandon the Collateral under 11

U.S.C. § 554(b) for these reasons (check all that apply):

- ☒ **The Collateral is that is the subject of his Motion was sold at the foreclosure sale August 21, 2018. Creditor is the owner of the Collateral by virtue of the Sheriff's Deed attached as Exhibit B.**
- ☒ The Collateral is of inconsequential value and benefit to the estate because it was sold at the foreclosure sale August 21, 2018. Creditor is the owner of the Collateral by virtue of the Sheriff's Deed attached as Exhibit B.

WHEREFORE, **Creditor** prays for an order from the Court:

- (a) granting **Creditor** relief from the automatic stay of Bankruptcy Code § 362 to permit **Creditor** to proceed under applicable nonbankruptcy law; AND
- (b) AUTHORIZING AND DIRECTING THE CHAPTER 7 TRUSTEE TO ABANDON THE COLLATERAL UNDER BANKRUPTCY CODE § 554.

Respectfully submitted,

18-030145_VMP

/s/Stephen R. Franks

Stephen R. Franks (0075345)

Edward H. Cahill (0088985)

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Attorneys for Creditor

The case attorney for this file is Stephen R.
Franks.

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CERTIFICATE OF SERVICE

This is to certify that on November 20, 2018, a true and accurate copy of the foregoing Motion for Relief from Stay and Abandonment on First Mortgage for Real Property Located at 8610 Hadden Rd, Twinsburg, OH 44087-2116 was served:

Via the Court's Electronic Case Filing System on these entities and individuals who are listed on the Court's Electronic Mail Notice List:

Office of U.S. Trustee, Northern District of Ohio, Party of Interest, (Registered address)@usdoj.gov

Harold A. Corzin, Chapter 7 Trustee, hcorzin@csu-law.com

and on the below listed parties by regular U.S. mail, postage prepaid:

Kenneth S. Taylor and Alycia Driggins-Taylor, 8610 Hadden Road, Twinsburg, OH 44087

Kenneth S. Taylor and Alycia Driggins-Taylor, 8610 Hadden Rd, Twinsburg, OH 44087-2116

Summit County Fiscal Officer, 175 South Main Street , Akron , OH 44308

/s/Stephen R. Franks
